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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,704	02/03/2004	Michael G. Poterek	5516USADI	1308

30173 7590 09/23/2004

GENERAL MILLS, INC.
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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/770,704

Applicant(s)

POTEREK ET AL.

Examiner

Jeffrey A. Shapiro

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lhoest (US 5,946,217) in view of Nakagawa (US 6,711,874 B1) and further in view of Neary (US 6,751,524 B2).

Lhoest discloses solution reservoirs (110b), a solution receptacle feeders (110a) in the form of containers (210) in which material is either released from or transferred to the respective container. See col. 6, lines 43-58 of Lhoest. See also col. 1, lines 45-50, which states that capsules or granules or syrups, etc., are dispensed. Lhoest further discloses that the system is a computer driven installation (10) in which the reservoirs and feeders are all movable relative to each other. In other words, either the feeder can be either stationary or movable, as all containers (210) are movable on a means consisting of roller or chain conveyors, for example, as described at col. 6, lines 59-64. The containers (210) are identifiable to the system by labels or other means such as optical reading and weighing. See col. 11, lines 16-21 and col. 12, lines 10-28. Lhoest also states at this passage that the position of each satellite unit is known and can be determined at any time.

Lhoest does not expressly disclose, but Nakagawa discloses use of a weight checker (30) (construed as a checkweigher) with integrity check circuitry (see figures 9a and 10, for example) as part of a pharmaceutical packaging apparatus with conveyor (310).

Lhoest does not expressly disclose, but Neary discloses a system of gap control between successive items for a conveyor system having photoeyes (48(a-1), and which detects position of items relative to the conveyor system. (See abstract and figures 1-10.)

Lhoest, Nakagawa and Neary are considered to be analogous art because they are all concerned about electronic control of industrial systems and article handling. Note also that Lhoest's system dispenses pharmaceutical and detects weight and position of said pharmaceutical throughout the system, Nakagawa's system accepts pharmaceutical from a dispenser, weighs it and performs a quality check after packaging has been done, and Neary discloses position control of items on a conveyor with respect to both the conveyor and each other.

At the time of the invention, it would have been obvious to use the Lhoest's system to feed pharmaceutical to Nakagawa's packaging system with check weighing system.

The suggestion/motivation would have been to package pharmaceutical materials that are handled by Lhoest's system. Also Note that Lhoest's system detects weight of various containers and stations. See Lhoest, col. 12, lines 19-23.

At the time of the invention, it would have been obvious to use the gap control system of Neary's conveyor system in Lhoest's system.

The suggestion/motivation would have been to insure the packages are properly singulated with an adequate gap between them. See Neary, col. 3, lines 36-47.

Therefore, it would have been obvious to combine Lhoest, Nakagawa and Neary in order to obtain the invention as described in Claims 11-54.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/770,704
Art Unit: 3653

Page 5



Jeffrey A. Shapiro
Examiner
Art Unit 3653

September 19, 2004



DONALD P. MALSKI
SUPERVISORY PATENT EXAMINER
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